

**REMARKS**

This is a response to the Office Action dated July 11, 2005. Claims 1-41 and 51-91 are pending in the application. In the Final Office Action, claims 1-41 and 51-91 were rejected pursuant to 35 U.S.C. § 112, 2<sup>nd</sup> paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as their invention. Additionally, Claims 1-41 and 51-91 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. App. Pub. No. 2002/0059114 A1 (“Cockrill”). Finally, claims 1-41, and 51-91 were also rejected pursuant to 35 U.S.C. § 103(a) as being obvious to a person having ordinary skill in the art in view of Cockrill.

The rejections from the Final Office Action are discussed below in connection with the various claims. No new matter has been added. Reconsideration of the application is respectfully requested in light of the following remarks.

**I. REJECTIONS UNDER 35 U.S.C. § 112, 2<sup>nd</sup> paragraph**

Independent Claims 1 and 51 were rejected pursuant to 35 U.S.C. § 112, 2<sup>nd</sup> paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as their invention. In particular, the Examiner states that it is unclear “what is a first suggested recurrence” and that it is unclear “if the first suggested order has the first suggested recurrence.”

Applicants submit that the Examiner’s interpretation of Claim 1 is incorrect. With this response, claims 1 and 51 have been amended for clarity and not for reasons relating to patentability. First, Applicants’ specification sets forth a variety of exemplary recurrences. For example, a recurrence may specify, “when the order management system 108 is to generate the order to the fulfillment entity 110A, B and the frequency with which the order should be generated.” (Page 10, lines 20-22). Alternatively, a recurrence may specify, “when the consumer 102 desires to receive the products or services and the frequency or delivery interval.” (Page 10, lines 22-24). Additionally, Claims 1 and 51 clearly show a system and method that causes fulfillment of an order comprising an identification of a first two or more suggested products or services to be fulfilled, a first suggested recurrence for said fulfillment of each of said first two or more suggested products or services, and first

suggested quantities for said fulfillment for each of said first two or more suggested products or services, as claimed. In other words, fulfillment of individual products or services of an order may recur according to different recurrence patterns associated with each individual product.

5           Accordingly, Applicants submit that claims 1 and 51 are definite, and request that these rejections of these claims be withdrawn.

          Additionally, dependent claims 2-41 and 52-91 were also rejected pursuant to 35 U.S.C. § 112, 2<sup>nd</sup> paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as their invention. Claims 2-41  
10       and 52-91 depend, directly or indirectly, from claim 1. Applicants respectfully submit that dependent claims 2-41 and 52-91 should be allowed for at least the reasons set forth above for the independent claim.

## **II. REJECTIONS UNDER 35 U.S.C. § 102(e)**

15           Independent Claims 1 and 51 were rejected pursuant to 35 U.S.C. § 102(e) as being anticipated by Cockrill. With this response, claims 1 and 51 have been amended for clarity. Applicants respectfully submit that claims 1 and 51, as amended, are not anticipated by Cockrill as Cockrill fails to disclose all of the elements of these claims.

          Independent claim 1 relates to a “method for facilitating electronic commerce through  
20       a network, the network comprising at least one server computer capable of communicating with a browser system located at a remote client computer....” The method comprises:  
“receiving, by said at least one server computer from said browser system a first request for a first suggested order to be fulfilled, said first suggested order comprising identification of a first two or more suggested products or services of a plurality of products or services, said  
25       first suggested order also comprising a first suggested recurrence for said fulfillment of each of said first two or more suggested products or services and said first suggested order further comprising first suggested quantities for said fulfillment for each of said first two or more suggested products or services, wherein said first suggested recurrence associated with a first of said first two or more suggested products or services is configurable via said browser  
30       system and may be different than said first suggested recurrence associated with a second of

said first two or more suggested products or services,” “generating a first profile, by said at least one server computer, said first profile comprising a computer readable representation of said first suggested order,” and “causing, by said at least one server computer, said fulfillment of said first suggested order to automatically recur one or more times according to said first suggested recurrence based on said computer readable representation, by signaling a marketing system associated with said at least one server to fulfill each of said first two or more suggested products or services according to said associated of said first suggested recurrence.”

Independent claim 51 relates to an “order management system for facilitating electronic commerce over a network, said network comprising at least one server computer capable of communicating with a browser system located at a remote client computer over said network....” The order management system comprises: “an order receiver operative to receive to be fulfilled, from said browser system, a first request for a first suggested order, said first suggested order comprising identification of a first two or more suggested products or services of a plurality of products or services, said first suggested order also comprising a first suggested recurrence for said fulfillment of each of said first two or more suggested products or services and said first suggested order further comprising first suggested quantities for said fulfillment for each of said first two or more suggested products or services, wherein said first suggested recurrence associated with a first of said first two or more suggested products or services is configurable via said browser system and may be different than said first suggested recurrence associated with a second of said first two or more suggested products or services;” “a profile generator coupled with said order receiver and operative to generate a first profile, said first profile comprising said first suggested order;” and “an order generator responsive to said first profile and operative to cause said fulfillment of said first suggested order to automatically recur one or more times according to said first suggested recurrence, each of said first two or more suggested products or services being fulfilled according to said associated of said first suggested recurrence.”

Cockrill discloses a transaction network that facilitates and simplifies purchase transactions between any number of customers and any number of merchants. The network registers and authenticates customer purchase activities and maintains customer account data

including payment information as well as provides a single, central authentication mechanism for all participating merchant sites using a single customer identifier and password. Further, the transaction network accumulates purchase information across all of the merchant sites and the ultimate payment processing of those purchase transactions. The network additionally preferably provides customers with centralized, automated services for customer account management, product refunds, subscription management, and multiple purchasing accounts linked to the same payment account. *See Cockrill, Abstract.*

While Cockrill does generally disclose subscription products and services, Cockrill fails to disclose a system that receives, “a first request for a first suggested order to be fulfilled, said first suggested order comprising identification of a first two or more suggested products or services of a plurality of products or services, a first suggested recurrence for said fulfillment of each of said first two or more suggested products or services and first suggested quantities for said fulfillment for each of said first two or more suggested products or services, wherein said first suggested recurrence associated with a first of said first two or more suggested products or services is configurable via said browser system and may be different than said first suggested recurrence associated with a second of said first two or more suggested products or services,” as claimed by Applicants.

Instead, Cockrill discloses a system that provides subscription management services for periodical subscriptions, such as the Wall Street Journal. Cockrill allows a user to track multiple subscriptions. In addition to the subscription name, each subscription also “includes an indication of the expiration date of the subscription, as well as an indication of whether the subscription will automatically renew when it expires.” Cockrill, para. 91. Cockrill does not disclose or suggest, however, that either a first suggested recurrence or quantity information is received from a browser system, as claimed. Cockrill does not suggest passing this recurrence information to a server computer for any of its periodicals, much less receiving the recurrence information from a browser system located at a remote client computer that also transmits order and quantity information. Moreover, Cockrill does not disclose or suggest associating any quantity information with its subscriptions. Indeed, a user of the Cockrill system is unable to order additional copies of a periodical, and is similarly unable to configure the recurrence associated with a periodical via a browser

system, as claimed, because, as described in more detail below, periodicals are non-repeating periodically published documents which are published according to a schedule defined by the publisher, rather than the consumer. For these reasons, claims 1 and 51 are patentable over Cockrill.

5           Moreover, Cockrill teaches away from Applicants' claimed invention in that periodical subscriptions typically feature a fixed recurrence tied to the publication schedule of the periodical. For example, a subscriber to the Wall Street Journal is unable, and would typically not want, to receive their newspaper bi-weekly rather than daily, as it is published. Even if the user had this option, ordering a newspaper bi-weekly or daily is not analogous to  
10           applicants claimed invention as the subscriber is essentially receiving a different 'product' each time the periodical is delivered, rather than a product replenishment. Each new publication essentially results in the creation of a new product as the publication will include different articles, features and other content with each publication. Cockrill does not suggest a system that may, for example, repeatedly deliver the February 1, 2005 edition of the Wall  
15           Street Journal at recurrences specified in a subscription order and configurable by the user via a browser system, nor would this be desirable by the recipient. In fact, the content of the periodic changes almost entirely. In contrast, Applicants claimed system causes the same or substantially equivalent products to be delivered according to a recurrence that may be set by the user.

20           Finally, Cockrill also teaches away from Applicants' invention as claimed because periodical subscribers typically don't order multiple copies. A typical individual subscriber would not want to receive three copies of the Wall Street Journal, etc. In light of this, Cockrill does not even disclose or suggest an order that a subscriber may order more than a single subscription, as no quantity information is maintained by the system of Cockrill and  
25           the user is not provided with the ability to order multiple copies. In contrast, Applicants claims require receiving, by said at least one server computer from said browser system, a first request for a first suggested order, said first suggested order comprising a first two or more suggested products or services of a plurality of products or services, a first suggested recurrence for each of said first two or more suggested products or services where the first

recurrence is configurable via said browser system and first suggested quantities for each of said first two or more suggested products or services.

For at least these differences, claims 1 and 51 are patentable over Cockrill. Accordingly, Applicants request that this rejection of this claim be withdrawn.

5 Dependent Claims 2-41 and 52-91 were also rejected pursuant to 35 U.S.C. § 102(e) as being anticipated by Cockrill. Dependent claims 2-41 and 52-91 depend, directly or indirectly, from claims 1 and 51 and should be allowed for the reasons set out above for the independent claims. Applicants therefore request that the Examiner withdraw this rejection of these claims.

## 10 II. REJECTIONS UNDER 35 U.S.C. § 103(a)

Independent Claims 1 and 51 were also rejected pursuant to 35 U.S.C. § 103(a) as being obvious to a person having ordinary skill in the art in view of Cockrill. Applicants further submit that independent Claims 1 and 51 are not obvious in view of Cockrill.

15 As discussed above, Cockrill does not disclose each feature claimed in independent Claims 1 and 51. The Examiner summarily notes that any modifications necessary to make Cockrill render Applicants' claims unpatentable would be obvious to allow a user to modify their subscriptions, but fails to note any particular modifications that would result in such a combination. However, only modifications prompted by hindsight can cure the deficiency of  
20 Cockrill. In particular, Cockrill teaches away from Applicants' claimed invention in that periodical subscriptions typically feature a fixed recurrence tied to the publication schedule of the periodical, each edition of the periodical is a different product, and periodical subscribers typically don't order multiple copies, as discussed above. For at least these reasons, claims 1 and 51 are not obvious in view of Cockrill. Accordingly, Applicants  
25 request that the Examiner withdraw this rejection of independent Claims 1 and 51

In response to Applicants' previous response, the Examiner notes that Applicants' arguments that their system and method claims recite a method and system that includes two or more suggested products or services that may recur according to different recurrence patterns, but that such phraseology is not found in the independent claims. Applicants  
30 respectfully disagree, submit that such phraseology is indeed in Applicants' claims, and

direct the Examiner to independent Claims 1 and 51, which each recite, “a first request for a first suggested order, said first suggested order comprising *identification of a first two or more suggested products or services* of a plurality of products or services to be fulfilled, *a first suggested recurrence for said fulfillment of each of said first two or more suggested products or services* and first suggested quantities for said fulfillment for each of said first two or more suggested products or services, *wherein said first suggested recurrence associated with a first of said first two or more suggested products or services* is configurable via said browser system and *may be different than said first suggested recurrence associated with a second of said first two or more suggested products or services*” (emphasis added). Accordingly, Applicants respectfully request reconsideration of their previous arguments in light of the express language of Applicants’ claims.

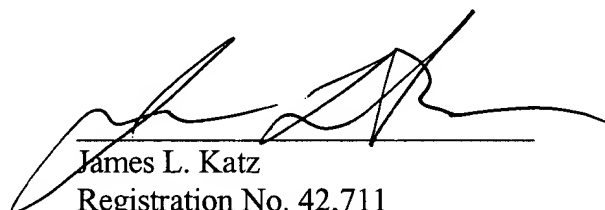
Dependent Claims 2-41 and 52-91 were also rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Cockrill. Dependent claims 2-51 and 52-91 should be allowed for the reasons set out above for claims 1 and 51 from which they depend. Applicants therefore request that the Examiner withdraw this rejection of these claims.

**CONCLUSION**

Applicants respectfully submit that all of the pending claims are in condition for allowance and seek early allowance thereof. If for any reason, the Examiner is unable to allow the application in the next Office Action and believes that an interview would be helpful to resolve any remaining issues, he is respectfully invited to contact the attorney of record, James L. Katz, at (312) 321-7739.

Respectfully submitted,

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